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BA 3/11/03

Docket No. 1232-4510

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Hideo KAWAHARA

Group Art Unit: 2612

Serial No.: 09/255,144

Examiner: James M. Hannett

Filed: February 22, 1999

For: **APPARATUS AND METHOD FOR CORRECTING SHAKE BY
CONTROLLING SAMPLE TIMING OF SHAKE SIGNAL**

RESPONSE TO REQUIREMENT FOR ELECTION/RESTRICTION

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Commissioner for Patents
Washington, DC 20231

MAR 10 2003

Technology Center 2600

Sir:

3/14/03
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In response to the Office Action dated January 28, 2003 imposing a requirement for election/restriction in the above-identified application, Applicant provisionally elects to prosecute the claims in the species of Figure 8. Claims 1-7 and 9-21 are readable on the elected species.

Applicant believes that the election/restriction requirement is improper and therefore makes the above election with traverse.

Applicant respectfully asserts that the species of Figure 11 is also examinable together with that of Figure 8 because it is a modification of the species of Figure 8 and shares common features with the species of Figure 8 which are searchable together. Applicant further submits that the two species may not be patentably distinct. Accordingly, Applicant submits that the species of Figures 8 and 11 are properly examined as a single species. Claim 8 is readable on the species of Figure 11. Thus, claims 1-21 are readable on the species of Figures 8 and 11.

Applicant respectfully submits that for an election/restriction requirement to be proper the MPEP, at section 803, is clear that "there are two criteria for restriction between patentably distinct inventions" as follows:

- (1) The inventions must be independent . . .; and
- (2) There must be a serious burden on the examiner if restriction is not required

Applicant respectfully submits that (1) all groups of restricted claims are properly presented in the same application; (2) undue diverse searching would not be required; and (3) all claims should be examined together. Examination of claims 8 and 22-77 would place no additional "serious" burden on the examiner as examination of these claims would not require undue diverse searching beyond that which would be necessary for examination of claims 1-7 and 9-21.

Accordingly, Applicant respectfully submits that claims 8 and 22-77 should be examined on the merits as well.

REMARKS

An early and favorable examination on the merits is respectfully requested

The Commissioner is hereby authorized to charge any additional fees which may be required for the timely consideration of this response under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account No. 13-4500, Order No. 1232-4510.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: February 28, 2003

By:



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CERTIFICATE OF MAILING (37 C.F.R. §1.8(a))

Commissioner for Patents
Washington, DC 20231

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Sir:

Technology Center 2600

I hereby certify that the attached:

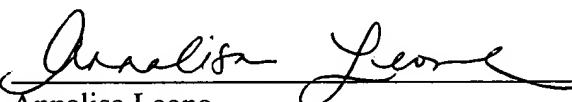
1. Response to Requirement for Election/Restriction; and
2. Return Receipt Postcard

along with any paper(s) referred to as being attached or enclosed and this Certificate of Mailing are being deposited with the United States Postal Service on date shown below with sufficient postage as first-class mail in an envelope addressed to the: Commissioner for Patents, Washington, DC 20231.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: February 28, 2003

By:


Annalisa Leone

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